

ARKANSAS SUPREME COURT

No. CR 08-1108

JAMES LEE JACKSON
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered December 4, 2008

PRO SE MOTION FOR RULE ON
CLERK AND PETITION FOR WRIT OF
CERTIORARI TO COMPLETE THE
RECORD [CIRCUIT COURT OF
CHICOT COUNTY, CR 2003-77, HON.
DON GLOVER, JUDGE]

MOTION FOR RULE ON CLERK
DENIED; PETITION FOR WRIT OF
CERTIORARI MOOT.

PER CURIAM

In 2004, petitioner James Lee Jackson was found guilty by a jury of murder in the first degree, committing a terroristic act and possession of firearms by a felon. An aggregate sentence of life imprisonment was imposed. We affirmed. *Jackson v. State*, 363 Ark. 311, 214 S.W.3d 232 (2005).

Subsequently, petitioner timely filed in the trial court a pro se petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1. The petition was denied on March 29, 2007. Petitioner timely filed a pro se notice of appeal from the order on April 4, 2007, but did not tender the record to this court until September 16, 2008, which was 531 days after the notice was filed. A record must be tendered within ninety days of the date of the notice of appeal in accordance with the time limit set in Arkansas Rule of Appellate Procedure--Civil 5(a), as applied through Arkansas Rule of Appellate Procedure--Criminal 4(a). The record in this matter should have been tendered to this

court no later than July 3, 2007.

Now before is petitioner's pro se motion for rule on clerk seeking to lodge the record belatedly. He also asks that a writ of certiorari be issued to complete the record on appeal

Petitioner places the fault for the untimely tender of the record on the circuit clerk. He also argues that his failure to perfect the appeal should be excused because he was incarcerated. It is well settled that it is not the duty of the circuit clerk, or the responsibility of anyone other than the petitioner, to perfect an appeal and that this duty is not excused because the petitioner is incarcerated. *Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam); see *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988) (per curiam). Numerous pro se litigants who are also incarcerated do comply with our rules of procedure, file timely notices of appeal, and bring appeals of adverse rulings to this court on a daily basis. Petitioner's argument that the burden was shifted to the circuit clerk to perfect the appeal because he was in prison is not persuasive.

Petitioner here has stated no good reason for the failure to timely tender the record, and he is clearly at fault. All litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam). Accordingly, the motion for rule on clerk is denied. The petition for writ of certiorari is moot.

Motion for rule on clerk denied; petition for writ of certiorari moot.